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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 DAMARI WILLIAM SINGLETON,

12 Petitioner,

13 v.

14 J. DOERER, Interim Warden,¹

15 Respondent.
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Case No. EDCV 24-0153 SB (PVC)

**ORDER ACCEPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE**

18 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, all the records
19 and files herein, the Report and Recommendation of the U.S. Magistrate Judge, and
20 Petitioner's objections. After having made a de novo determination of the portions of the
21 Report and Recommendation to which objections were directed, the Court concurs with
22 and accepts the findings and conclusions of the Magistrate Judge.

23 The Court additionally addresses Petitioner's argument that it has jurisdiction over
24 his classification designation under *Rodriguez v. Copenhaver*, 823 F.3d 1238 (9th Cir.
25 2016). Dkt. No. 30 at 2–3; *see Rodriguez*, 823 F.3d at 1242 (“Although a district court
26 has no jurisdiction over discretionary designation decisions, it does have jurisdiction to
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28 ¹ J. Doerer, Interim Warden of United States Penitentiary, in Victorville, California, where
Petitioner was in custody when he filed his Petition, is substituted as the proper
Respondent. *See* Fed. R. Civ. P. 25(d).

1 decide whether the Bureau of Prisons acted contrary to established federal law, violated
2 the Constitution, or exceeded its statutory authority when it acted pursuant to 18 U.S.C.
3 § 3621.”). Petitioner argues that the Bureau of Prisons (BOP) exceeded its statutory
4 authority under 18 U.S.C. § 3621(b)(3) when it “failed to adequately consider [his]
5 criminal history” by miscalculating his criminal history points. Dkt. No. 1 at 3 of 64.
6 Section 3621(b)(3), however, only requires that the BOP consider the “history and
7 characteristics of the prisoner” in determining the place of imprisonment and does not
8 specifically address the calculation of a prisoner’s criminal history score.

9 Moreover, the gravamen of Petitioner’s argument is that the BOP failed to conform
10 to BOP policy statement 5100.08, which provides the procedure for classification
11 designations and criminal history point calculations. *See id.* at 7–8 of 64 (“BOP policy
12 statement 5100.08 is the procedural formula of the custody classification designation
13 discretion granted in 18 U.S.C. § 3621(b)”). Under Ninth Circuit law, however,
14 noncompliance with a BOP program statement does not constitute a violation of federal
15 law and therefore does not fall under the purview of *Rodriguez*. *See Reeb v. Thomas*, 636
16 F.3d 1224, 1227 (9th Cir. 2011) (holding violation of BOP program statement is not a
17 violation of federal law); *Fiorito v. Entzel*, No. 5:17-CV-02158-JFW-KES, 2019 WL
18 1446403, at *6 (C.D. Cal. Mar. 27, 2019), *report and recommendation adopted*, No. 5:17-
19 CV-02158-JFW-KES, 2019 WL 1438067 (C.D. Cal. Mar. 29, 2019), *aff’d*, 845 F. App’x
20 706 (9th Cir. 2021) (distinguishing case from *Rodriguez* where Petitioner argued that BOP
21 had violated program statement 5100.08). The Court does not have jurisdiction to
22 consider Petitioner’s arguments challenging the BOP’s compliance with its own program
23 statement.

24 Having adopted the Magistrate Judge’s Report and Recommendation, IT IS
25 ORDERED that (1) Petitioner’s Motion to Voluntarily Dismiss Ground Two (Dkt. No.
26 36) is GRANTED; (2) Petitioner’s Motion to Voluntarily Dismiss Preliminary Injunction
27 Motions (Dkt. No. 37) is GRANTED; (3) the Petition is DENIED; and (4) Judgment shall
28 be entered DISMISSING this action with prejudice. IT IS FURTHER ORDERED that

1 the Clerk serve copies of this Order and the Judgment herein on Petitioner at his current
2 address of record and on counsel for Respondent.

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5 DATED: December 2, 2024


6 STANLEY BLUMENFELD, JR.
7 UNITED STATES DISTRICT JUDGE
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